

# Exhibit U

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

YATRAM INDERGIT, on behalf	)	
of himself and all others	)	
similarly situated,	)	
	)	
Plaintiff,	)	CIVIL ACTION NO.
	)	1:08-cv-09361-
	)	PGG-HBP
v.	)	
	)	
RITE AID CORPORATION, RITE	)	
AID OF NEW YORK, INC.,	)	
and FRANCIS OFFOR as	)	
Aider & Abettor,	)	
	)	
Defendants.	)	

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The deposition of PHILIP P. BOURGEOIS III,  
taken on behalf of the Defendants, pursuant to the  
stipulations agreed to herein, before JoRita B.  
Meyer, Registered Merit Reporter, Certified  
Realtime Reporter, Certified Court Reporter, at  
Ogletree, Deakins, One Ninety One Peachtree Tower,  
191 Peachtree Street, N.E., Suite 4800, Atlanta,  
Georgia, commencing at 9:46 a.m., August 3, 2011.

1 Guard?

2 A. Every day. Every day. We had an armed  
3 guard at the door every day. Two, actually.

4 Q. And did the armed guard give you any  
5 instructions in terms of things you had to do?

6 A. No. They -- well, they made us close at  
7 6 o'clock. I had to tell corporate that, that we  
8 could only open during daylight hours.

9 Q. And was your pharmacist there when you  
10 first opened up the store?

11 A. Are you kidding me? The pharmacist?  
12 He's the last one to show up.

13 Q. So how did you deal with that? Was the  
14 pharmacy open?

15 A. We couldn't open the pharmacy until a  
16 pharmacist was there.

17 Q. Because there has to be a licensed  
18 pharmacist in order to dispense drugs, right?

19 A. Exactly.

20 Q. So were there a lot of people trying to  
21 come in and get drugs?

22 A. Not too many. Well, at the time, not  
23 too many. They were mainly looking for batteries,  
24 ice, water, the basic necessities.

25 Q. And did you run out of those things?

1           A.    Oh, gosh. I ran out before, yeah,  
2 before the storm.

3           Q.    Was there anything that -- did you try  
4 to order more, or did you try to get some after  
5 the storm?

6           MS. REHMAN: Objection to form.  
7 You can answer.

8           THE WITNESS: Actually, we had no way of  
9 ordering other than through, you know,  
10 communications through a phone, because  
11 everything was basically down. Corporate did  
12 all the ordering for us and sent it down.

13 BY MS. PUCKETT:

14          Q.    So how did you -- did you -- who did you  
15 call at corporate?

16          A.    I'm trying to think who it was I  
17 contacted. I can't recall who it was. But it was  
18 a certain line that we would call, and then they  
19 would instruct them what trucks are coming and  
20 what they're sending from the warehouse.

21          Q.    Did you -- was it a live person that you  
22 talked to on the line?

23          A.    Yes.

24          Q.    And you don't remember what that  
25 person's title was or anything?

1 A. No, I sure don't.

2 Q. Did you have to order like that for the  
3 entire month period when you were on a generator?

4 A. Basically -- yeah. Basically, we didn't  
5 do a lot of the ordering. Corporate did it,  
6 because they were just assuming what you needed  
7 and didn't realize -- you know, we kept saying  
8 hey, we need, this, this, this, but they would  
9 already have the trucks packed and already  
10 shipping.

11 And we know what we need and we know  
12 what the community needs, but they would not  
13 adhere to that. They were shipping what they had  
14 in their relief trailers to us.

15 Q. So they had prepared a certain list of  
16 things for relief trailers, and they just sent  
17 that no matter what?

18 A. Exactly.

19 MS. REHMAN: Objection to form.

20 You can answer.

21 THE WITNESS: Yes.

22 BY MS. PUCKETT:

23 Q. And did you tell them, hey, we need  
24 this, this, this?

25 A. Basically, I was telling them, yeah, we

1 need, this, this, this, we need flashlights, we  
2 need more of this, we need ice arranged, those  
3 type of things, you know. And they would say  
4 okay, but we would never see it, basically. I  
5 mean, we'd see a little bit of some things.

6 Q. Did you ask them why you didn't get  
7 everything that you asked for?

8 A. Not really. Because it was kind of a  
9 thing of if you asked them why, you're just going  
10 to hear, oh, well, it wasn't available or, oh,  
11 this -- we can only ship this or that.

12 It was told to us many times that, hey,  
13 we're shipping this; this is what you're getting,  
14 basically. You can put it on a wish list but...

15 Q. So if I'm understanding you correctly,  
16 you would assess the needs of the community, and  
17 you would relay them to corporate, and only  
18 sometimes you would see some of it; is that right?

19 MS. REHMAN: Objection to form.

20 You can answer.

21 THE WITNESS: Yeah, in other words, I  
22 would tell them, hey, look, just for  
23 instance, we need lamp oil, okay? That was  
24 something you sold a little bottles of it,  
25 okay? We didn't have the big bottles or

1 anything, but we had the little ones. But  
2 they were buying anything, you know, if you  
3 could get it in.

4 So I said, look, I need -- I could use  
5 50 cases of this lamp oil here right now. We  
6 can sell it. I said people need lamp oil.  
7 And at this time it was through the district  
8 manager. You know, we -- the district  
9 manager had set up his own hotline now, and  
10 we could call within -- I think it was within  
11 three or four days. And we were on  
12 conference calls with him every day,  
13 basically in the morning.

14 And, you know, I would tell him, look,  
15 we can -- we need this, this. And basically,  
16 he would just say, look, you're not going to  
17 get this. You're going to get whatever we  
18 can send as far as from the warehouse.

19 They're going to send it to you.

20 BY MS. PUCKETT:

21 Q. So was the warehouse near your store?

22 A. No.

23 Q. How far away was it?

24 A. I think it was in Alabama.

25 Q. Was Alabama affected by Katrina too?

1 MS. REHMAN: Objection to form.

2 You can answer.

3 THE WITNESS: Yeah, but not as -- not as  
4 critical.

5 BY MS. PUCKETT:

6 Q. Was the warehouse affected by Katrina?

7 A. No. They were in full capacity.

8 Q. How long were you taking in cash out of  
9 a shoebox?

10 A. Until we got the generator. So it was  
11 about two weeks.

12 Q. How did you secure the shoebox?

13 A. We had a safe, not an electronic safe, a  
14 regular.

15 Q. At that time were cashiers allowed to  
16 handle the shoebox, or did you require it to be a  
17 manager?

18 A. Well, we didn't have any cashiers until  
19 about two weeks. So it was basically me and one  
20 other guy there for almost a week and a half,  
21 running the store.

22 Q. Who was the other guy?

23 A. He was my clerk. He was a young  
24 gung-ho-type guy, so it was like -- I knew he  
25 would make it of all people.



1 open from 9 to 3 instead of opening from daylight  
2 till dawn -- I mean till dusk. That's what they  
3 wanted. They wanted until dusk, until it got  
4 dark. That was the hours the National Guard said.

5 But, you know, listening to the radio  
6 and the news and that, we were hearing about, you  
7 know, people are getting looted, the pharmacies,  
8 they're hitting pharmacies a lot and stuff. And,  
9 you know, National Guard -- this was towards more  
10 New Orleans, but, you know, it wasn't meaning  
11 that's going to be National Guard. They were  
12 hitting stores.

13 So I told them, I said, you know, my  
14 suggestion is we open from 9 to 3. I said, take  
15 care of the community, they'll know we're open  
16 from that time. Then the employees can get home  
17 safely and everything and that. And he said,  
18 well, let me get it through. Let me call, let me  
19 run it through corporate, see what they think.

20 Q. Do you know whether he did that?

21 A. No, I don't know. I mean, he came back,  
22 told me, no, we're going to stay the same hours.

23 Q. So sounds like during this time and in  
24 general there was red tape that you had to go  
25 through; is that fair?

1 MS. REHMAN: Objection to form.

2 You can answer.

3 THE WITNESS: Yeah. In other words, you  
4 know, as a store manager, you was more of a  
5 puppet saying, okay, I'm here at the store,  
6 this is what happened, this is what it is.  
7 Now, what do you want me to do? Here's what  
8 I think.

9 And then, bam, well, no, here's what  
10 we're going to do.

11 BY MS. PUCKETT:

12 Q. What percentage of the time when you  
13 were offered suggestions did they go against your  
14 judgment, would you say? Did they generally agree  
15 with your judgment or not so much?

16 A. Well, I mean, the store manager would  
17 say, yeah, I understand, but, you know, I'm going  
18 to have to run it through corporate or the  
19 regional, whoever he was talking to.

20 Q. Sorry. I think I might have not been  
21 clear.

22 How often when you asked to run  
23 something through was your decision reversed, is  
24 what I wanted to know. Like, if you had, like, an  
25 80 percent success rate or like a 50 percent, that

1 kind of thing.

2 MS. REHMAN: Objection to form.

3 You can answer.

4 THE WITNESS: Oh. I would say I had a  
5 30 percent success.

6 BY MS. PUCKETT:

7 Q. So they didn't agree with your judgment?

8 A. They weren't taking any -- no. They  
9 wanted basically -- their main concern was to keep  
10 that store open and make that money while the  
11 opportunity was there.

12 Q. You're talking about during Katrina; is  
13 that right?

14 A. Yes.

15 Q. In general, during non-Katrina times,  
16 was it also 30 percent success rate or higher?

17 A. Hmm. That's -- that's basically. I  
18 mean, it's -- it was basically about 30 percent,  
19 you know. Any type of things you can come up  
20 with, like, hey, I believe we need these type  
21 shirts or this type of souvenirs for this area,  
22 this, that, well, let me run it through corporate.

23 Next thing you know, well, no, they said  
24 no, we can't do that.

25 Q. So you're talking about primarily

1 ordering when you say that, right?

2 A. That and running the store, asking for  
3 payroll according to sales and percentages, you  
4 know, needs for the store, due to the fact that  
5 either you're in a high -- a higher -- a bigger  
6 store, so to speak, where you need more people to  
7 watch the store and help customers deter any type  
8 of theft they might try. That type of thing.

9 Q. So it sounds like as a store manager,  
10 you were constantly observing what the needs of  
11 the store were and relaying them to corporate. Is  
12 that fair?

13 A. Yes, that's fair. That's fair.

14 Q. And then it was frustrating because you  
15 only had a 30 percent success rate in terms of  
16 suggestions that you made; is that also fair?

17 A. Yeah, it was -- because coming from --  
18 you know, I just came from WalMart, and I was  
19 out -- I stayed out for about a year, enjoyed kind  
20 of my freedom.

21 But, you know, coming back into -- into  
22 it, I always said I wanted to come into something  
23 smaller so that it was more -- not as hectic. So  
24 coming from them, you know, where you had all the  
25 freedom to run your store, and do -- do

1 everything, getting into Rite Aid, it was like you  
2 was just a puppet there to turn that key and open  
3 that door and start taking that money. You had  
4 no -- no basic say-so over the store, to run your  
5 store.

6 Q. When you say "puppet," you mean you had  
7 to implement company policy; is that fair?

8 MS. REHMAN: Objection to form.

9 You can answer.

10 THE WITNESS: Yeah. In other words,  
11 whatever the company said, you know, hey,  
12 you're going to do this, you're going to do  
13 that, you're going to do this. And of course  
14 I understood. You know, you always have some  
15 rules that corporate followed, that you had  
16 to follow.

17 But also, if corporate is going to  
18 involve you as a store manager, then they  
19 should give you the freelance to run your  
20 store accordingly to the community, to the  
21 customers and what they want. And you go and  
22 you run your store accordingly.

23 And that's how -- that's how it was run  
24 as far as -- you know, I was adjusted to as  
25 far as WalMart. And then coming here, it was

1           like your hands were tied. You couldn't.

2       BY MS. PUCKETT:

3           Q.     So -- but it was your primary  
4       responsibility to enforce company policy; would  
5       you agree with that?

6           MS. REHMAN: Objection to form.

7           You can answer.

8           THE WITNESS: Well, yeah, of course. I  
9       mean, if the company said you got to do this,  
10      you better do it or you won't have a job.

11      BY MS. PUCKETT:

12           Q.     And that includes telling -- telling the  
13      employees to do things in accordance with company  
14      policy, right?

15           A.     Yeah, when you had employees to work.

16           Q.     And when you say when you had employees,  
17      are you talking about the Katrina period or just  
18      in general?

19           A.     In general.

20           Q.     So meaning you -- did you have a lot of  
21      call-outs or that kind of thing that you had to  
22      deal with?

23           A.     Not as much call-outs as just basic  
24      hours given and scheduling of where you -- you  
25      were told basically how you had to set your

1 schedule up.

2 Q. You mean -- you're talking about labor  
3 budgets?

4 A. Yes.

5 Q. So if I understand labor budgets  
6 correctly, based on sales volume, maybe, from the  
7 year before, the same week, it generates a certain  
8 number of payroll hours, and then the district  
9 manager can make changes to it; is that right?

10 MS. REHMAN: Objection to form.

11 You can answer.

12 THE WITNESS: Yeah. It was a weird --  
13 it was weird how it was set up, but the  
14 district manager would set your budget with  
15 it. And then Kronos would come in, and you  
16 would have to be a percent to payroll on a  
17 schedule.

18 Well, Kronos would look at it and say,  
19 okay, well, this day you did, just for  
20 instance, \$6,000.

21 BY MS. PUCKETT:

22 Q. Last year?

23 A. Yeah. And then the next day you did  
24 10,000. Okay, well, you don't need as much  
25 payroll on this day because you only did 6, but

1 then this day it shows it more.

2 Well, one thing wrong here. How do you  
3 know this day wasn't raining? Or how do you know  
4 this day wasn't a Katrina day? Or how does the  
5 computer know blah, blah, blah. So in turn, you  
6 had to set it accordingly, but once again, you had  
7 no deviation from that to run it.

8 Q. Did you ever go over your payroll  
9 budget?

10 A. I've tried, but it was -- you know, we  
11 would have to send it in to the district manager,  
12 and he would approve it.

13 Q. Your schedule?

14 A. Yes.

15 Q. Every week?

16 A. Yes.

17 Q. And do you know whether it was the same  
18 way in other districts?

19 A. Oh, yeah. Every -- on the two different  
20 districts that I worked in, on those stores it was  
21 all the same.

22 Q. Outside of those -- were those districts  
23 in the same region?

24 A. Yes.

25 Q. So outside of that region, do you know



1 if that's how they did it everywhere?

2 A. Only by talking to other store managers  
3 when we'd go to a conference and that, they would  
4 say, oh, yeah, we do the same thing.

5 Q. In terms of getting a schedule approved  
6 by the district manager?

7 A. Yeah. Because we -- that was always a  
8 hot thing, because we never had control over the  
9 schedule. We never could say, okay, Monday we're  
10 not going to do that much, but this guy -- but  
11 Kronos is saying you are. So, you know, you can't  
12 say, okay, no, I want this for truck day.

13 Q. You're saying Kronos. Is that -- that's  
14 different from the Staffworks?

15 A. Well, same thing. Staffworks.

16 Q. So same thing, Kronos and Staffworks?

17 A. Yeah, that's how it was, we were calling  
18 it.

19 Q. Okay. So it's your testimony that you  
20 believe that every store manager in the company  
21 had to get their schedule approved by the district  
22 manager in advance?

23 MS. REHMAN: Objection to form.

24 You can answer.

25 THE WITNESS: I mean, to my knowledge,

1           yeah, that's what I believe.

2       BY MS. PUCKETT:

3           Q.     That's what you believe, but you don't  
4     know for sure. You only for sure about your  
5     district, right?

6           A.     Yeah.

7           MS. REHMAN: Objection to form.

8           You can answer. Sorry.

9           THE WITNESS: Yeah.

10       BY MS. PUCKETT:

11           Q.     Go ahead.

12           A.     Yes.

13           Q.     And when you say you had to get approval  
14     from the DM for your schedule, that was to make  
15     sure -- that was the number of hours, not  
16     necessarily, hey, I don't think Joe should be  
17     working the night shift so many days a week; is  
18     that right?

19           MS. REHMAN: Objection to form.

20           You can answer.

21           THE WITNESS: No. In other words, you  
22     had so many hours that day, you know, to  
23     spend. So, you know, you had to look at  
24     Joe's availability and you had to look at  
25     Sally or whoever, and accordingly adjust it

1 MS. REHMAN: He hadn't finished his  
2 answer.

3 MS. PUCKETT: Oh, I'm sorry.

4 THE WITNESS: But as you go through on  
5 the end caps, on the plan-o-grams, they do  
6 them different. Basically, a large format  
7 store, a medium store, and, like, a small  
8 store.

9 So it was kind of, you know, the end  
10 caps, what they show there, you kind of look  
11 at it, say, okay, they want this, they want  
12 this, they want this on the front end caps,  
13 on it.

14 BY MS. PUCKETT:

15 Q. But the plan-o-grams you got from  
16 Bogolusa weren't -- were in sort a larger format,  
17 but they weren't tailored towards the Bogolusa  
18 store, right?

19 MS. REHMAN: Objection to form.

20 You can answer.

21 THE WITNESS: Not in particular, no.

22 BY MS. PUCKETT:

23 Q. And how did you handle that difference?

24 A. Well, what would happen is, I would have  
25 to -- I have a layout of the whole store for all

1 the end caps, and when the plan-o-gram came in for  
2 that month or the following month, I would put  
3 what's got to go at each end cap and then fax it  
4 over to the district manager and say, look, here's  
5 my layout, here's what we're doing.

6 And then he'll -- he'll either call me  
7 and say, yeah, that's fine, go ahead, or he'll fax  
8 back with an X saying, no, you need to put this,  
9 this is where they want this.

10 Q. And what was your success rate with  
11 that?

12 MS. REHMAN: Objection to form.  
13 You can answer.

14 THE WITNESS: It varied. I mean, it --  
15 you know, sometimes there was nothing else  
16 they could do. You know, the Tide had to go  
17 here, or the Gatorade had to go here because  
18 that's all that we have left open according  
19 to the end caps, and they want it on a front  
20 aisle end cap, a main aisle going like  
21 towards pharmacy or something.

22 BY MS. PUCKETT:

23 Q. But in terms of the Bogolusa store, you  
24 had a lot of extra end caps, right?

25 A. Back end caps.

1 Q. Back end caps. And in terms of your  
2 success rate in terms of what you put on the back  
3 end caps, whether the district manager approved  
4 it, what do you think that was?

5 MS. REHMAN: Objection to form.

6 You can answer.

7 THE WITNESS: I would put some things  
8 that I believed -- like clearance stuff and  
9 things that getting out of the back room, to  
10 try to sell and things.

11 But again, once he came in, he would  
12 say, look, corporate doesn't want this. They  
13 don't want to see this clearance stuff like  
14 this. And I would say, well, where does  
15 corporate want it? Well, just keep it in the  
16 back room for now. We'll make a decision on  
17 it later.

18 Then I would say, well, give me -- can I  
19 get some markdown dollars to get rid of this  
20 or something?

21 Well, we'll see what we can do, but as  
22 of right now, I can't give you nothing.

23 BY MS. PUCKETT:

24 Q. How frequently would that happen? Would  
25 it happen pretty often that he would come in and

1 coming from a different place starting at Rite  
2 Aid; is that right?

3 MS. REHMAN: Objection to form.  
4 You can answer.

5 THE WITNESS: Yeah. In other words,  
6 he's coming from a different culture, so to  
7 speak.

8 BY MS. PUCKETT:

9 Q. Do you consider yourself a good trainer?

10 A. You have to ask the train -- the ones I  
11 trained -- the one I trained there. But I would  
12 think, because I mean at WalMart, I had to train  
13 different people in different jobs, you know. And  
14 I've got a lot of patience and that, and I don't  
15 blow up at people that make mistakes. I just make  
16 them understand that it's a learning experience;  
17 everybody is going to make mistakes.

18 Q. So when you say you got to learn from  
19 your own mistakes, that applies not just to  
20 assistant managers, but all employees?

21 A. Yeah, basically, as long as it's within  
22 the guidelines and it's not a gross conduct  
23 mistake type thing. But I mean, you know, if you  
24 make a mistake that you are short \$10 or something  
25 that day, well, you got to learn from that, that,

1 you know, you possibly gave this \$10 away or  
2 something, you know.

3 Q. So you try to turn mistakes into  
4 learning experiences?

5 A. As a positive, yes.

6 Q. That was your personal philosophy?

7 A. Yeah. You never -- in retail, you  
8 never, you never learn everything as a negative,  
9 because then you got low moral standards in the  
10 store. The people are always down.

11 The other way, if everybody is happy,  
12 you get more work productivity out of people, and  
13 they understand you better.

14 Q. And is that how you ran your stores at  
15 Rite Aid?

16 A. Yes, basically. And I had a few issues  
17 that -- that -- you know, that I had to address in  
18 a more -- more, you know, harsh way. But again,  
19 with Rite Aid, compared to just, say, WalMart,  
20 again, you know, I had a person that -- that I  
21 knew was stealing. It was a key guy. It was a  
22 key person.

23 Q. At Rite Aid?

24 A. At Rite Aid. Okay. Well, you know, I  
25 can't tell him to go home. I can't send him home.

1 I can't suspend him or anything. I got to call  
2 loss prevention. I got to call the district  
3 manager. And I got -- and the district manager  
4 has got to call HR.

5 And, you know, before I know it, I mean,  
6 three days has been passed, and here's this guy  
7 who's still coming to work, and I'm trying to  
8 watch this or that, you know, and we can't do  
9 anything till we get all these approvals.

10 Q. Was this person eventually terminated?

11 A. Oh, yes. And arrested.

12 Q. And when you suspected this person was  
13 stealing, you immediately called loss prevention,  
14 right?

15 A. Oh, yes, we called loss prevention and  
16 the district manager also.

17 Q. And did they set up any kind of  
18 investigation, like cameras or anything?

19 A. There was no really basically need.

20 Q. You already had proof?

21 A. We basically had the proof. And it also  
22 involved a night deposit bag that came up missing.

23 Q. So between the time that you reported it  
24 and the actual termination, how many days went by?

25 A. The actual termination -- actually, when



1 we suspended him or whatever, he quit.

2 Q. How many days went by before he was  
3 suspended?

4 A. I want to say two days.

5 Q. So --

6 A. But it might have been one.

7 Q. You asked loss prevention, can I suspend  
8 this guy, and maybe two -- one or two days later  
9 they said okay?

10 A. Well, basically what I did -- what I  
11 done was I called loss prevention, told them what  
12 was going on and everything. Okay. Then once  
13 he -- he was aware of it, you know, I waited for  
14 direction from him to say, okay, go ahead, suspend  
15 him, whatever, at that time. Well, he didn't give  
16 me no answer.

17 So I said okay. I got -- he said, okay,  
18 give me -- I need a statement, I need blah, blah,  
19 blah. Okay.

20 So then I called the district manager  
21 and I said, look, loss prevention didn't tell me  
22 to suspend this guy, fire this guy, or anything.  
23 I said, I need to know what we need to do with  
24 this to get -- I don't want him back in here and  
25 that. He said, let me call HR, we're going to

1 ultimately able to prove the case against him,  
2 right?

3 MS. REHMAN: Objection to form.

4 You can answer.

5 THE WITNESS: I guess, yeah. I mean,  
6 loss prevention was handling everything at  
7 that. From that point on, he was coming in  
8 the store and doing -- you know, looking at  
9 the cameras, store cameras and everything,  
10 and trying to determine it.

11 And, you know, they watched him leave  
12 the store with the bag, with the deposit, so  
13 we know he left with the deposit but --

14 BY MS. PUCKETT:

15 Q. On the security camera?

16 A. Yeah, in the store.

17 Q. Did you watch that too?

18 A. I think I might have.

19 Q. Did you think to check that?

20 A. Well, I didn't, because I -- once I  
21 reported it to loss prevention, it's in their  
22 hands, let them come in and do the investigation  
23 and that. I didn't know that they were going to  
24 start saying, well, maybe, you know, it could be  
25 something in the morning.

1 But then when they seen -- and he told  
2 me, he said, when I seen him leave with it and  
3 there's nothing on camera that he showed up at the  
4 bank with it, to the bank deposit box to deposit  
5 it, that tells me right there.

6 Q. So that's one example of having to call  
7 loss prevention before you terminated someone,  
8 right?

9 A. Correct.

10 Q. And you believed you weren't authorized  
11 to suspend him before you called loss prevention;  
12 is that correct?

13 A. Yeah. You could not -- you could not  
14 fire or suspend anybody without going through your  
15 district manager or loss prevention or both and  
16 them going through HR and then getting  
17 confirmation.

18 Q. Do you know whether that was true of  
19 other regions and districts?

20 A. I don't know about other districts.

21 Q. You only know about the two districts  
22 you worked in, right?

23 A. Yeah, just that.

24 Q. So you never fired anybody without first  
25 telling the district manager; is that your

1 testimony?

2 A. Oh, yes, yes. You never could -- we  
3 never had to say, look, I got to let you go, blah,  
4 blah, blah. You always had to go through HR --  
5 through the district manager to go through HR or  
6 go through both loss prevention and district.

7 Q. Did you ever -- did you ever ask for  
8 approval to fire someone and have it be denied?

9 A. Yes.

10 Q. Who?

11 A. Oh, gosh. It was one of the girls in  
12 pharmacy. She kept calling in every -- every  
13 week, constantly, constantly. And I wrote her up  
14 twice for it. And, you know, and then the  
15 pharmacist is there saying, look, you got to get  
16 rid of this girl, I don't want her anymore, she's  
17 not dependable, blah, blah, blah.

18 Well, so she ends up at the front end.  
19 I move her out and I move somebody else. Well,  
20 she continues at the front end, the same thing,  
21 every weekend calling in. So I wrote her up  
22 again. So I had three write-ups.

23 So I called the district manager and  
24 said, look, I'm going to fire this girl. I got  
25 her written up three times. She calls in every

1 weekend. It's just every time.

2 Well, how many write-ups? I said, I got  
3 three. Well, we need to get a couple more. And I  
4 said, well, three is not enough? I said and also,  
5 she's been doing it in the pharmacy I don't know  
6 for how long. And he proceeded to say, well, I  
7 don't care. He said, we don't have nothing else.  
8 I want some more documentation.

9 Q. Was that Jim?

10 A. That was actually -- that was Birch.

11 Q. Do you -- did you think that that girl  
12 was possibly somebody who might sue the company?

13 MS. REHMAN: Objection to form.

14 You can answer.

15 THE WITNESS: I don't -- the character  
16 of her, possibly.

17 BY MS. PUCKETT:

18 Q. Did Birch know that too?

19 MS. REHMAN: Objection to form.

20 You can answer.

21 THE WITNESS: I wouldn't think so. I  
22 don't think he kind of, you know, could  
23 relate. He had so many people, I don't know  
24 if he could actually even know who I was  
25 talking about personally-wise.

1 BY MS. PUCKETT:

2 Q. Did the process of getting approvals for  
3 firing people increase over the course of your  
4 time at Rite Aid?

5 A. I mean, the process stayed the same.

6 You just had to -- you had to -- there was no way  
7 you could fire somebody on your own. You had to  
8 have that approval from upper management.

9 Q. Was that person the only one that --  
10 strike that.

11 Did she ultimately get fired?

12 A. Yes.

13 Q. Because you got the additional  
14 write-ups?

15 A. Yes.

16 Q. So how long between the time that you  
17 first asked to fire her and she was actually  
18 fired?

19 A. Two weeks, because I had five by then.  
20 Because each other weekend she did the same.

21 Q. So in the end, even though your request  
22 was first rejected, it eventually was approved,  
23 right?

24 A. Correct.

25 Q. Any other example of you asking to fire

1 someone and it not being approved?

2 A. Well, taking a long time, you know, and  
3 then finally they went ahead and did it.

4 When I first got to the Bogolusa store,  
5 I monitored a girl coming -- a pharmacy tech came  
6 out of pharmacy and went into the photo lab part,  
7 got her film, brought it to pharmacy, and was  
8 looking at the pictures. And I watched her on the  
9 camera with it. And then I watched her go up to  
10 the -- to the pickup window and give them out to  
11 whoever came through the pickup window.

12 So I called loss prevention, told them  
13 what I seen and that. And he said, well, hold up,  
14 I'll have to come in and look at the film on that.  
15 I said okay.

16 So then I called the district manager  
17 and I told him, look, I witnessed everything, I  
18 seen everything. He said, well, let loss  
19 prevention handle it.

20 Q. And she was ultimately terminated,  
21 right?

22 A. Yes, she was.

23 Q. Anybody that you recommended termination  
24 for that was never terminated, that you remember?

25 A. No, not really. Most of -- the majority

1 observed you doing this, you know, and I had  
2 to get approval to terminate. So in turn,  
3 I'm telling them, well, I was going to fire  
4 you, but I had to get approval beforehand.

5 BY MS. PUCKETT:

6 Q. So they understood that you weren't the  
7 only one making the decision?

8 A. Correct. That's what I wanted them to  
9 understand, is that if you want to decide to call  
10 the district manager, whatever, you can go ahead,  
11 but it came through him also to do this.

12 Q. So if you want to slash somebody's  
13 tires --

14 A. Yeah, go to his house.

15 Q. So that was actually kind of a benefit  
16 that you had that buffer, right?

17 MS. REHMAN: Objection to form.

18 You can answer.

19 THE WITNESS: Benefit? I wouldn't -- I  
20 wouldn't think of it, because I -- I would  
21 want to feel as though it's my store, I'm  
22 running this store, and I'm making the  
23 decisions, and if I feel as though I need to  
24 fire you -- because I'm not going to just  
25 fire you because I don't like you. Okay?



1 I'm going to fire you because there's a  
2 reason. Okay? So I should be able to do  
3 that.

4 BY MS. PUCKETT:

5 Q. But everybody you felt as though needed  
6 to be fired was ultimately fired, right?

7 MS. REHMAN: Objection to form.

8 You can answer.

9 THE WITNESS: That, or they quit before  
10 the time.

11 BY MS. PUCKETT:

12 Q. So more administrative red tape, that  
13 was annoying to you, right?

14 MS. REHMAN: Objection to form.

15 You can answer.

16 THE WITNESS: Red tape? I would say,  
17 you know, just your hands are tied. In other  
18 words, upper management, you know -- well,

19 Rite Aid is saying, hey, you got to go  
20 through this, you can't run your store as a  
21 store manager like we said you're going to  
22 be. Okay? That's what they're basically --  
23 I was feeling they were telling me.

24 BY MS. PUCKETT:

25 Q. Right. But, see, you said your hands

1     were tied, but ultimately the result was the same.  
2     It just took longer because you asked for approval  
3     to terminate. And every single time the person  
4     was ultimately terminated. Is that fair?

5             MS. REHMAN: Objection to form.

6             You can answer.

7             THE WITNESS: Yeah, that's fair to say,  
8             that because of my prior experience with  
9             firing people, that I know I have to have the  
10            ducks in a row to get fired.

11    BY MS. PUCKETT:

12            Q. And you had the ducks in a row?

13            A. Exactly. And --

14            Q. So when you asked for the approvals,  
15            except in that one case where you had to get a few  
16            more write-ups, your approval was granted?

17            MS. REHMAN: Objection to form.

18            THE WITNESS: Yes, yes. That's --

19    BY MS. PUCKETT:

20            Q. So that was four people that had to be  
21            fired. How many people did you have to hire  
22            through your course at Rite Aid?

23            A. Oh, gosh. I had a lot of turnover in  
24            the Bogolusa store.

25            Q. Would you describe that as a

1 high-turnover store?

2 A. Yes.

3 Q. What made it a high-turnover store?

4 A. Basically, and I hate to -- it was more  
5 of a younger clientele crowd at that store.  
6 There's no set seasoned associates at that store,  
7 so the turnover was constantly.

8 So when you hire the younger kids, they  
9 don't want to work nowadays. They just want a  
10 paycheck, okay, basically. And when they got to  
11 work on a Friday night when the ballgame is at the  
12 high school or whatever, you know, they wanted  
13 off. They don't understand that the store doesn't  
14 just close the door, we still have to have  
15 somebody.

16 Well, that type of mentality of these  
17 folks, and it was just -- it was almost every  
18 other week we were hiring somebody.

19 Q. So you had to do a lot more hiring in  
20 that store than Picayune?

21 A. Oh, yes, most definitely.

22 Q. Picayune had some seasoned employees?

23 A. Yes.

24 Q. And did you have to also get approval  
25 before you hired someone from your district

1 manager?

2 A. Well, the process is they got to take  
3 this card and go call the number and take this  
4 survey.

5 Q. A screening?

6 A. Yeah, a survey. That's what Rite Aid  
7 wants it understood, it's a survey.

8 Q. So they don't want it to be called a  
9 screening?

10 A. Yeah.

11 Q. But that's what it is, right?

12 A. Yeah, exactly. And after they take  
13 that, you get sent with a SYSM from HR saying  
14 whether it's okay to call them in for an interview  
15 or whether no, you can't, because they didn't pass  
16 the screening.

17 Q. I see. So the screening took place  
18 before you interviewed them; is that right?

19 A. Correct. In other words, they came in,  
20 filled out an application, you know, and that.  
21 And, you know, if they didn't come in with shorts  
22 on or flip-flops and, you know, muscle shirts and  
23 stuff, then I would give them the card and say,  
24 okay, well, look, go ahead and call this.

25 So I would have a bunch of people

1 already preapproved from the survey that I could  
2 call in to interview when I needed.

3 Q. I see. Do you know whether the  
4 screening was done before an interview in other  
5 districts?

6 A. The way I understood it, that was Rite  
7 Aid policy, that you could not interview anybody  
8 until they have taken the survey.

9 Q. But you don't know for sure, right?

10 A. I can't -- yeah, I can't speak for other  
11 people. I can speak for some of the store  
12 managers that called me and say, I got to wait for  
13 this stupid survey thing before I can even talk to  
14 the person.

15 Q. So those people were from your general  
16 districts and regions, right?

17 A. Yes.

18 Q. Would you have preferred it the other  
19 way around? Like, for example, you invited  
20 whoever you wanted in and then they got screened,  
21 and then you might have wanted to hire somebody,  
22 but then the screening came back negative and you  
23 had to not hire them?

24 MS. REHMAN: Objection to form.

25 THE WITNESS: You can look at it both

1           You can answer.

2           THE WITNESS: Yes.

3 BY MS. PUCKETT:

4           Q. Did you have special Mardi Gras  
5 merchandise?

6           A. Here again is where managing your store  
7 comes into play compared to, like, you know, when  
8 I managed WalMarts, we could go locally to the  
9 vendors and order the Mardi Gras merchandise from  
10 these.

11          Q. But not at Rite Aid?

12          A. Not at Rite Aid. We could not get it.  
13 And then when I would say, okay, we need to order  
14 a stack base of Bacardi rum because this is what  
15 they buy, you know, and I'd have to send it in to  
16 Birch or John and say, this is why I want this,  
17 because the parade passes right in front of the  
18 store, you know, this is what I need.

19               Well, then they'd come back and say, no,  
20 corporate doesn't want you ordering that because  
21 the inventory is going to go up and blah, blah,  
22 blah. And I'd say, well, it's going to sell.  
23 That was my argument: I'm buying things that's  
24 going to sell that I know that caters to this  
25 store, to this community. But I would always get

1 overshoot.

2 Q. You're talking about liquor  
3 specifically, right?

4 A. In a certain aspect of it. But I mean,  
5 the Mardi Gras supplies, that type stuff, you  
6 know, I'd call, say, look, we need flags and these  
7 type of things sell because they buy the stuff for  
8 Mardi Gras and that. And, you know, well, that  
9 has to be approved through corporate.

10 Q. Did any Mardi Gras merchandise get  
11 approved?

12 A. I never seen any Mardi Gras merchandise  
13 show up during Mardi Gras. And I always said I  
14 can't believe they're missing the boat.

15 Q. That could have been a gold mine?

16 A. It very well could have. Extra sales,  
17 put it that way.

18 Q. But Rite Aid didn't order any because it  
19 wasn't part of what they usually ordered?

20 A. Either that or the buyer or whoever is  
21 handling that felt as though that it wasn't that  
22 important. You know, I don't know the whole  
23 aspect. I can tell you, you know, from their  
24 point, because they -- it was always handled by  
25 corporate.

1 I can tell you from WalMart standards,  
2 when I bought it, it was guaranteed sales. So  
3 when I bought it from the vendor, he guaranteed  
4 whatever didn't sell, I sent back and get full  
5 credit.

6 Q. So Rite Aid may not have had that kind  
7 of arrangement with their vendors?

8 A. They may not have.

9 MS. REHMAN: Objection to form.

10 You can answer.

11 THE WITNESS: They may not have or, you  
12 know, I don't know if they checked into it or  
13 what, but I never could understand that.

14 BY MS. PUCKETT:

15 Q. Did Rite Aid sell any beads?

16 A. No.

17 Q. Beads, Mardi Gras.

18 A. Right.

19 Q. And you would have wanted them to sell  
20 that, right?

21 A. Yes.

22 Q. So we talked about -- strike that.

23 Which store was it that Ron Tardo worked  
24 for you in?

25 A. Bogolusa.



1 weren't sure about it, right?

2 A. Yeah.

3 Q. You weren't -- and you didn't want to  
4 accuse her, right?

5 A. Yeah.

6 Q. But once it was told, hey, these are all  
7 coming from the same number, you told her not to  
8 do it anymore, right?

9 A. Correct.

10 Q. Any other examples, even though we have  
11 only seven hours, of ambiguous policies? How  
12 about just one more?

13 A. One more. Well, the policy again with  
14 the hours and telling us that, oh, you're going to  
15 be off every other weekend and you're going to  
16 only work 48 hours, which in turn turned out to be  
17 then 50 hours, saying, no, it's 50 hours you guys  
18 need to work.

19 Q. When did that change?

20 A. Right after I started. When I went to  
21 the Picayune store, they started the 50 hours, or  
22 supposedly that was supposed to be it all the  
23 time. And, you know, that policy was out the  
24 window, because, I mean, you worked 50 hours,  
25 yeah, plus the added time that you put in your own

1 time.

2 And, you know, and I reported -- I  
3 told -- I told the district manager that, you  
4 know, I'm working 60 hours a week. You know, I  
5 said, I need help in here, I cannot operate the  
6 store with what I'm getting.

7 You know, he says, well -- again, gives  
8 that thing. Well, we got to do what we got to do  
9 to get things done.

10 Q. So you just interpreted that to the best  
11 of your ability, right?

12 A. Correct, in a sense. And he knew the  
13 hours. Birch and John, they knew the hours that I  
14 was battling.

15 Q. You said you worked more at the Bogolusa  
16 store. How many hours a week, on average, on an  
17 average week, not like a seasonal week, at  
18 Bogolusa?

19 A. Average, average, 60 hours.

20 Q. What about Picayune?

21 A. Picayune, probably 55, average.

22 Q. And what about seasonal for Bogolusa?

23 A. Oh, gosh. Seventy-five.

24 Q. And what about Picayune, for seasonal?

25 A. About 60, about an extra five.

1 Q. So the seasonal affected Bogolusa even  
2 more than Picayune?

3 A. Yeah, because you had much more space on  
4 the shelves that you had to get things done. Plus  
5 not -- you know, you didn't have seasonal  
6 associates, so it was more work for you to do that  
7 a season associate possibly could have done.

8 Q. You had to spend more time training  
9 people to do things at Bogolusa too, right?

10 A. Correct.

11 Q. Because they weren't -- it was a  
12 high-turnover store?

13 A. Correct.

14 Q. Do you remember about how much time you  
15 would spend training in Bogolusa, on average?

16 A. Well, I mean, as far as -- they got to  
17 go through, I think, eight hours of training of  
18 the CBTs that they're just in a room taking those  
19 CBTs. I think it's eight hours it takes.

20 Q. So you would train them sort of more in  
21 a shadowing sense, right?

22 MS. REHMAN: Objection to form.

23 You can answer.

24 THE WITNESS: Shadowing, yeah. In other  
25 words, like price changes, I would try to

1 look better, right?

2 MS. REHMAN: Objection to form.

3 THE WITNESS: Well, not that I wanted it  
4 to look better. I just -- just my personal  
5 preference on the -- on what, you know, on  
6 the job they were doing.

7 BY MS. PUCKETT:

8 Q. Would you agree that if the floor was  
9 better waxed, then customers would find it more  
10 pleasant?

11 A. That, and the appearance.

12 Q. Just general appearance?

13 A. General appearance.

14 Q. Do you -- have you in your many years of  
15 retail observed a correlation between cleanliness  
16 and sales?

17 A. Yes.

18 Q. Tell me about that.

19 A. Well, I mean, when you walk into a  
20 store -- I'll give you an instance that happened.  
21 It's just like -- well, today it's even worse now  
22 at WalMart. But you walk into a WalMart store and  
23 you got freight all over the floor in the morning,  
24 you know, and you're trying to shop. How can you  
25 shop when you got freight, you got the carts and

1 everything there? You don't want to go through  
2 all that mess.

3 Q. Doesn't make you want to buy things?

4 A. Right. You get disgusted and you just  
5 say, I'm leaving. Okay? Or long lines at  
6 WalMart. You got to wait and 15 people ahead, you  
7 know, and you got a customer service manager and  
8 assistant manager is over there, they're just  
9 walking around with walkie-talkies. They can jump  
10 on the register and help. So those type of  
11 things --

12 Q. They affect sales?

13 A. That affects it.

14 Q. And that was also true at Rite Aid,  
15 right?

16 A. As far as?

17 Q. In terms of a correlation between  
18 cleanliness and sales.

19 A. Well, it depends who is running the  
20 store and how you do it. I mean, Rite Aid  
21 expected you to clean the bathrooms and expected  
22 you to get the -- to vacuum the carpets and sweep  
23 the floors.

24 Q. And would you agree that that would  
25 affect sales?

1 A. Oh, yeah. I mean, it would make  
2 definitely an appearance on your store and how  
3 people feel in your store.

4 Q. And like you just mentioned about  
5 WalMart, the customer would come in and see just  
6 gross, not vacuumed floor, and they would be,  
7 like, ooh, I'm getting out of here, I don't want  
8 to buy stuff, right?

9 MS. REHMAN: Objection to form.

10 You can answer.

11 THE WITNESS: Yeah. In other words, you  
12 go to a pharmacy where you had to vacuum in  
13 the waiting area, I mean, if you go in there  
14 and you see spider webs and everything else  
15 in there, you go, wait a minute, I don't want  
16 these guys filling my prescription.

17 BY MS. PUCKETT:

18 Q. And similarly with bathrooms and all  
19 that other stuff, that could make your store less  
20 pleasant to be in?

21 A. Well, back rooms, customers don't shop  
22 in back rooms.

23 Q. Bathrooms, I said.

24 A. Oh, bathrooms. Yes.

25 Q. But in terms of back rooms, where the

1 one, and then come back and do the front end on  
2 the other.

3 Q. So it didn't matter which two, you just  
4 had to do at least two a day; is that right?

5 A. Correct. You can do two in pharmacy.  
6 You can do it in the morning or evening or however  
7 you want to do it.

8 Q. So how would you decide which two to do?

9 A. You just think about it, say, oh, I got  
10 to do my audit today, so you make a choice right  
11 then. I'll go and I'll ask: Did you do any cash  
12 audits today, cashier audits today?

13 Q. Ask who?

14 A. I'll ask -- let's say if Ron was there,  
15 I would say, hey, Ron did you do any cash? No, I  
16 didn't. I said, okay, we got to do one. So then  
17 I'd choose where, and either I'll do it or --

18 Q. Would Ron know that you had to do at  
19 least two a day?

20 A. Yes. Yes. Ron --

21 Q. So sometimes when you asked him, he  
22 would say, yeah, I already did one?

23 A. Very few times, but it did happen before  
24 that. Yeah, I did one this morning. You know, I  
25 might come in at 2 o'clock, and I'd say, hey, Ron

1 you did any audits, any cashier audits yet? And  
2 he'd say, oh, yeah, I did one this morning or, oh,  
3 no, I forgot about it.

4 I said, okay, well, we need to do one  
5 now. So then later on tonight or something, I'll  
6 do one or I'll go to pharmacy and do one right  
7 now.

8 Q. So you didn't specifically have to tell  
9 Ron every day to do one?

10 A. No. He -- that was basically part of  
11 everyday-type routine thing that we needed to do.

12 Q. You talked about ordering merchandise  
13 for the store. Did you ever do the ad order?

14 A. I would do the ad order, but again, you  
15 don't have the last say on the ad order. The  
16 district manager has to look at it. You do the ad  
17 order and you hit a button, it tells the district  
18 manager you looked at it. Then he looks at it.

19 If he feels you didn't order enough or he wants to  
20 order this because he wants this or that --

21 Q. He'll tell you?

22 A. He don't tell you. He orders it.

23 Q. He doesn't tell you? How often did that  
24 happen?

25 A. That happens every ad order.



1 Q. So does the district manager always  
2 change that?

3 A. He would -- sometimes he would call you  
4 and say, look, I ordered -- get ready, I ordered  
5 you two pallets of toilet paper, whatever, you  
6 know, get ready, you know.

7 And I'd say, well, we're not going to  
8 sell it. It's going to end up in the back room  
9 all this time, because we don't sell that kind, we  
10 sell the other kind. You know, well, I'm ordering  
11 district-wide, and this is what we're going to do.

12 Q. So sometimes he would order the same  
13 things for every store in the district?

14 A. Correct.

15 Q. Did -- how often did he change it  
16 without calling you and telling you?

17 MS. REHMAN: Objection to form.

18 You can answer.

19 THE WITNESS: It depends. I mean, you  
20 know, in a percentage again way, 60 percent  
21 of the time he changed it --

22 BY MS. PUCKETT:

23 Q. 60 percent?

24 A. -- some kind of way.

25 Q. Are we talking about John or Birch?

1 A. Talking about both.

2 Q. They both changed it the same?

3 A. Same percentage, about. Category?

4 Q. Yes.

5 A. And when I say change, I don't mean, you  
6 know, like I just said, two pallets. I might have  
7 ordered six, and they turned around and said, no,  
8 you need ten. You know, I might have not ordered  
9 any, and they said, no, you need to order some.  
10 That type of thing.

11 But once again, they're ordering the  
12 stuff. They don't know -- I'm here in the store.  
13 I know what sells at this store. I know what --  
14 how many we got on the shelf right now of this  
15 item, and I know that we're not going to sell more  
16 than what we got on the shelf, so I don't need  
17 them for the ad order, so I zero it.

18 Q. You mentioned before that it was -- that  
19 Rite Aid is the one who enters contracts with the  
20 vendors, not the store manager; is that right?

21 A. To buy?

22 Q. Yes.

23 A. I would think that's how they do it. I  
24 mean, the contracts.

25 Q. So you don't know whether Rite Aid

1     there and tell him I'm not going to try to make  
2     this, this is way too big.

3           Q.     Would you agree with me that, therefore,  
4     you were responsible for meeting the store retail  
5     budgeted sales?

6           A.     In all senses, yeah, because they're  
7     saying this is what you got to be on, we're going  
8     to hold you accountable, yes.

9                   I don't know if that's what you was  
10    trying to get the whole time.

11          Q.     Okay. So going back to Number 1,  
12    "Responsible for opening and closing the store and  
13    maintaining proper accountability for cash  
14    handling and company banking." Just for the  
15    record, we're looking at Exhibit 3, "Essential  
16    Duties and Responsibilities," which is about  
17    halfway down the page.

18                  So you didn't change anything to that  
19    one. Would you agree with it?

20          A.     Yeah. I mean, that's basics, yeah.

21          Q.     Okay. Number 3, "Utilize and follow  
22    Staffworks to ensure that labor is scheduled to  
23    meet customer service needs and completing  
24    operating activities and ensure the same standards  
25    of operation are enforced in the pharmacy

1 department."

2 And you wrote "Had no leadway in

3 schedules. Had to follow what Staffworks said."

4 That's what we talked about before  
5 today, right?

6 A. I think so. We talked about a bunch.

7 Q. So your previous testimony to me about  
8 Staffworks is accurate, right?

9 MS. REHMAN: Objection to form.

10 THE WITNESS: "Previous" meaning?

11 BY MS. PUCKETT:

12 Q. Today.

13 A. Yeah, I mean, to what I can remember,  
14 yeah. I mean, yes.

15 Q. So when you say "Had no leadway in  
16 schedules, had to follow what Staffworks said,"  
17 you're not saying anything different from what you  
18 said earlier, right?

19 A. Like I said, we've talked about so much,  
20 but I would -- I think so. I think we might have  
21 discussed it that way.

22 Q. Okay. Well, you testified earlier in an  
23 accurate manner, right?

24 A. Yeah, yeah, to whatever I said, yes.

25 Q. So is there anything that you feel you

1 need to add in terms of this comment that we  
2 didn't already discuss?

3 A. I can't remember exactly what we  
4 discussed.

5 Q. Okay. So is there anything you feel  
6 that you need to add to this comment "Had no  
7 leadway in schedules, had to follow what  
8 Staffworks said"?

9 I think earlier -- and tell me if I'm  
10 mischaracterizing. Earlier we talked about how  
11 you had to take longer to use Staffworks than it  
12 did to write the schedule by hand, because you had  
13 to not only work with the availability of your  
14 employees, but you had to deal with what  
15 Staffworks told you and do a certain percentage in  
16 terms of payroll.

17 Do you remember that testimony?

18 A. Correct.

19 Q. And that's what you meant by this,  
20 right?

21 A. Yeah. And in other words, I had no --  
22 in Staffworks I had no leadway to change people to  
23 here or there other than if I had to change them  
24 due to their availability, but I still had to plug  
25 that same time frame of those hours.

1 I couldn't take those hours and say, you  
2 know what, I don't need those eight hours on a  
3 Monday. I would do better getting those hours on  
4 a Friday when, I don't know, maybe truck day or  
5 something, I could use an extra person.

6 Q. Okay. Hold on. So it's your testimony  
7 that even within a workweek you could not change  
8 your hours from Monday to Friday?

9 A. My hours?

10 Q. Yes, or the hours you're scheduled. You  
11 couldn't say -- I mean, I understand that the  
12 bottom line, you could not go over payroll. But  
13 you couldn't within a week switch hours from  
14 Monday to Friday and vice versa? You had to go  
15 with what Staffworks said?

16 MS. REHMAN: Objection to form.

17 THE WITNESS: They -- okay. The company  
18 wanted you to go with exactly what the  
19 Staffworks said and no deviation from  
20 Staffworks. Okay? But in turn, in order to  
21 run my store, and even though I was -- I  
22 would get chewed out for it, I would deviate  
23 from that on it.

24 But the company did not want you -- if  
25 you had 16 hours on to work a cashier that

1           Staffworks gave you Monday, they expected  
2           you -- that's what they wanted.

3       BY MS. PUCKETT:

4           Q.     I see. So you deviated from it when you  
5           found it necessary to do so, but you weren't  
6           supposed to; is that fair?

7           MS. REHMAN: Objection to form.

8           THE WITNESS: Yeah, that's fair enough,  
9           to where I knew that I would need that person  
10          better. Might have been that day it was  
11          scheduled to rain that whole day, you know,  
12          and I said, man, we're going to be dead, I  
13          don't need an extra person there. So I'm  
14          going to -- and granted, I'm not the  
15          weatherman. I didn't know for sure ahead of  
16          time, but, you know, they said that.

17       BY MS. PUCKETT:

18          Q.     Right.

19          A.     And I said, well, I can still survive.

20          Q.     It would be nice if Staffworks scheduled  
21          the rain, right?

22          A.     Yeah, with that and Mardi Gras and the  
23          whole nine yards of it.

24          Q.     Do you know whether Staffworks was  
25          implemented in that way all over the company?

1 customers, though, to make sure?

2 A. Not really, because it was a lot of more  
3 involved, and it was not directly in the  
4 customers' way. I mean, it was a lot of outside  
5 repainting and stuff. And in the inside, it was a  
6 lot of repainting around the outskirts. So it  
7 really wasn't too -- too much involved.

8 Q. So it didn't affect your store  
9 operations that much?

10 A. No, I didn't see where it did that much,  
11 no.

12 Q. Did you ever help open a new Rite Aid  
13 store?

14 A. No.

15 Q. Did you ever help close, liquidate a  
16 Rite Aid store?

17 A. No.

18 Q. Number 9 says "Responsible for hiring  
19 and training from the leadership" -- strike that.

20 Number 9 says "Responsible for hiring  
21 and training," and then you handwrote "from the  
22 leadership DM and HR."

23 A. Yes.

24 Q. And what that meant was that you had  
25 to -- you had to do the screening before you were



1 able to hire, right?

2 MS. REHMAN: Objection to form.

3 You can answer.

4 THE WITNESS: Yeah. In other words, you  
5 know, I was responsible for that, but I  
6 wasn't able to do anything without the  
7 leadership, without the leadership of the DM  
8 or the HR to hire.

9 BY MS. PUCKETT:

10 Q. Correct me if I'm wrong, but you said  
11 that once the screening took place, then you  
12 interviewed them. And then what you did was you  
13 told the district manager who you were going to  
14 hire and he signed off on it. Is that right?

15 MS. REHMAN: Objection to form.

16 You can answer.

17 THE WITNESS: That's somewhat right.  
18 What happens is most of the time they will  
19 take your word in that.

20 I don't know when it was, this happens  
21 in spurts, but it was to the point where it  
22 got where after you interviewed them and  
23 that, and you thought that they were hireable  
24 material, you had to set up an interview with  
25 the DM, and the DM had to come down and

1 interview them.

2 BY MS. PUCKETT:

3 Q. We looked at Exhibit 1, which was the  
4 hiring guidelines, the Region 70 memo.

5 A. Uh-huh.

6 Q. Yes?

7 A. Yes.

8 Q. And I asked you if the DM ever came and  
9 hired at your store, and you said no. Is that not  
10 accurate?

11 A. No, that's accurate. He never came to  
12 my store and did it, but there was, you know --  
13 what was it? There was a policy stating out there  
14 that the DM would do it.

15 Q. Is that this policy?

16 A. I don't know if it was this one or not.  
17 I don't remember, because it happened -- you know,  
18 they put in an implement, then maybe two weeks  
19 later it's noneffective anymore, you know, that  
20 they didn't -- they didn't think it was feasible,  
21 I guess, or something.

22 But no, Birch never had to come. I  
23 would call Birch and I would say, hey, I got this  
24 person, and pretty much he would just say, go  
25 ahead, send the paperwork, make sure you do

1 everything.

2 Q. And I believe your testimony today is  
3 that he never told you you could not hire someone?

4 A. Yeah, he's never -- he's never declined.

5 Q. And neither did John?

6 A. No, neither did John. I didn't have too  
7 much intervening with John as I did with Birch,  
8 mostly Birch.

9 Q. In terms of hiring?

10 A. Yeah, because it wasn't too bad. Wasn't  
11 with him as much.

12 Q. And training, why was training from the  
13 leadership to the DM? I thought you testified  
14 that you were always training people. That wasn't  
15 always something the DM told you to do, was it?

16 MS. REHMAN: Objection to form.

17 THE WITNESS: No. Training came in CBTs  
18 from HR.

19 BY MS. PUCKETT:

20 Q. But you also mentored Ron, for example,  
21 right?

22 MS. REHMAN: Objection to form.

23 You can answer.

24 THE WITNESS: Well, yeah. I mean, if he  
25 had -- you know, if he did something, I would

1 that I didn't about your claims.

2 MS. REHMAN: Objection to form.

3 THE WITNESS: No. I mean, like I said,  
4 the only thing, in thinking about things, you  
5 know, these people are sitting at corporate,  
6 saying do this, do this, do that, have never  
7 actually stepped in a real environment and  
8 witnessed this, but yet they can turn around  
9 and say this is what it should take.

10 And in turn, it wasn't like this. It  
11 was totally different. And, you know, we're  
12 out there on the lines, front lines, doing  
13 this and not being paid for it, basically,  
14 while they're sitting at a desk, writing all  
15 this up and getting paid and going home at  
16 5 o'clock.

17 BY MS. PUCKETT:

18 Q. Anything else about your claims that I  
19 didn't ask that I should have?

20 A. Claims?

21 MS. REHMAN: Objection to form.

22 BY MS. PUCKETT:

23 Q. About the facts that relate to this  
24 lawsuit that I should have asked but didn't.

25 A. No, not that I can think of.

1 Q. And would you describe your primary  
2 responsibility for Rite Aid as a store manager to  
3 operate a profitable store?

4 A. Looking back at it now and looking at  
5 it, I would think Rite Aid did -- that was their  
6 intention, for us to manage that store in a  
7 profitable, you know, environment.

8 But now looking at it, it was -- you  
9 know, you had no control to operate that  
10 environment to make it even more profitable or  
11 even make it profitable when it became not  
12 profitable according to Rite Aid.

13 Q. So you didn't feel you had enough  
14 control, but your primary responsibility was to  
15 run it as best you could, within company policy  
16 and to be profitable, right?

17 A. Yeah, within the company policy of it,  
18 yes.

19 Q. So if I'm understanding you correctly,  
20 your primary duty as a store manager was to  
21 operate and manage the operation of a profitable  
22 store and enforce company policy as best as you  
23 could; is that accurate?

24 MS. REHMAN: Objection to form.

25 THE WITNESS: To manage it to the best

1 of my knowledge from their direction, yes.

2 BY MS. PUCKETT:

3 Q. To enforce their policies, right?

4 A. To enforce their policies from their  
5 direction.

6 Q. So your primary duty as a store manager  
7 for Rite Aid was to manage the operation of a  
8 store to make it as profitable as possible, while  
9 enforcing their policies; is that fair?

10 MS. REHMAN: Objection to form.

11 THE WITNESS: Yeah, that's fair.

12 BY MS. PUCKETT:

13 Q. Has your testimony today been complete  
14 and accurate?

15 A. As best as I can recollect.

16 Q. Anything that you can think of that  
17 would help you refresh your memory?

18 A. I mean, just like you did about asking  
19 me about Lanier, I totally forgot working for  
20 Lanier, you know, that type of stuff.

21 Q. So you can't think of any particular  
22 document that you might have that would help you  
23 refresh your recollection?

24 MS. REHMAN: Objection to form.

25 THE WITNESS: No, no, no.

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1 Page\_\_\_\_\_Line\_\_\_\_\_should read:\_\_\_\_\_

2 Reason for change:\_\_\_\_\_

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4 Page\_\_\_\_\_Line\_\_\_\_\_should read:\_\_\_\_\_

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20 \_\_\_\_\_

21 PHILIP P. BOURGEOIS III

22 Sworn to and Subscribed before me

23 \_\_\_\_\_, Notary Public.

24 This\_\_\_\_\_day of\_\_\_\_\_2011.

25 My commission Expires:\_\_\_\_\_

JBM